

GENERAL DESIGN PROCESS - DETERMINING NEW R/W

1. **Review of project by district sections, local government representatives, agencies and utilities through OPM process.** Insure that project scope, as defined in CD, is appropriate. Determine whether new construction or 3R standards should be used.
2. **Determine roadway deficiencies.** Review FHWA's 13 controlling criteria.
3. **Create a preliminary design which corrects all substandard features (identified in #2) to new construction standards, and includes any major additions defined by project scope, such as truck-climbing lanes.** Define a preliminary new R/W line. Include ample room between slope intercepts and new R/W. See Chapter 8 of the Utility Guide.
4. **Assess the impacts to abutting properties, utilities and environmental features.**
5. **Reduce impacts as appropriate based on accidents, traffic volume, project scope, etc.** Typical methods include:
 - Changes to horizontal and/or vertical alignment
 - Steepening slopes outside clear zone; or inside clear zone with beam guard
 - Spot placement of curb and gutter
 - Short sections of split block or rock walls
6. **Finalize design.** Be sure these items are fully addressed:
 - Concerns/requests by property owners, utilities, etc.
 - Drainage, including pipe installation and special ditches
 - Side roads and driveways
 - Intersection changes, including passing and turning lanes
 - Allow for vision corners where needed
 - Slope streamlining to allow for more consistent widths of new R/W lines
 - Have Real Estate review nearly complete plat (1-3 months before RPC date)
7. **Consider other types of R/W besides fee acquisition.** These include:
 - Temporary Interests, including Temporary Limited Easements, Construction
 - Permanent Limited Easements
 - Highway Easements
 - Restricted Development Easements
 - Utility Easements
 - (See Pages 6-5 and 6-6 for definitions)

Determining New R/W - continued

- **Fee vs. Easement.** To determine whether the existing right of way was purchased in fee or easement, the signed copy of highway conveyance must be reviewed. If you are still not sure use the wording of the original document in the new legal description.

8. Presentation of new R/W:

A. General Considerations

- Minimize jogs in new R/W (**Do not** just offset slope intercept line to create new Right of Way)
- Eliminate where possible very small parcels; avoid creating remnant parcels where possible
- Bearings in direction of stationing
- Monuments required at PCs, PTs and any change in direction
- Use tangents, **not curves**
- Make angular width changes, not 90° jogs unless holding existing R/W (not applicable to TIs/PLEs)
- Use even numbers for stations and outs where possible to make staking and use of R/W information easier
- Maintain at least 10' between R/W monuments and property lines
- Include blown up views for small TIs, congested areas and some ties to section corners

B. Description Considerations

- Include alphabetical designations in fee descriptions to shorten TI/PLE descriptions
- Include partial distances between tied land lines and to TIs/PLEs
- Include metes and bounds crossings between left and right R/W lines to allow for traverses which are less than 1 sheet in size
- When working in urban areas, utilize Lot and Block descriptions (i.e. The northerly 20 feet of Lot 2, Block 4)

REASONS TO PROVIDE WIDER RIGHT OF WAY

The general goal, per the Utility Guide - Chapter 8, Figure 8-1, page 4, is to locate the new R/W line a minimum of 10' outside of the widest slope intercepts, with streamlining to minimize the angle points in the R/W line. The major reasons, in addition to Utility concerns, are as follows:

1. ACCOMMODATION OF MINOR DESIGN CHANGES:

- Minor grade changes
- Special ditching or other drainage changes

2. ROADWAY CONSTRUCTION:

- Rounding at the toe or top of slopes, extending 3' to 5' beyond slope intercepts
- Room for intercepting embankments in high cut slopes
- Topsoil storage
- Marsh excavation disposal
- Relative inaccuracy of cross sections-- 5' of additional width beyond expected slope intercepts is common
- Installation of erosion control and slopes stakes outside of grading area

3. RELOCATING UTILITIES:

- Should be outside of grading limits to avoid construction conflicts
- Provide room for more than one utility; offsets between different utility facilities should be taken into account

4. FUTURE MAINTENANCE ACTIVITIES:

- Resolving erosion or drainage problems

5. FUTURE ADDITIONS TO THE ROADWAY:

- Noise barriers
- Bike paths
- Sidewalk

6. EROSION CONTROL:

- Detention ponds
- Stilling basins

REASONS TO MINIMIZE RIGHT OF WAY WIDTH

1. REDUCES LOSS OF LAND RESOURCES:

- Cropland
- Woods

2. REDUCES OR AVOIDS IMPACTS TO ENVIRONMENTAL RESOURCES:

- Wetlands
- Streams and lakes
- Archaeological sites
- Historical structures
- Parklands and other public property

3. REDUCES OR AVOIDS IMPACTS TO OTHER TYPES OF PROPERTY:

- Buildings (homes and businesses)
- Land improvements (septic systems, parking lots, wells, fences, signs, etc.)
- Utility facilities

4. REDUCES COST OF PROJECT:

- Land (especially urban)
- Buildings (including cost of relocation)
- Mitigation of wetlands
- Other property improvements
- Utility relocations
- Avoid properties contaminated by hazardous materials thereby avoiding liabilities to the Department

OTHER TYPES OF RIGHT OF WAY BESIDES FEE ACQUISITION

1. **TEMPORARY INTERESTS:** When a contractor needs to temporarily enter upon private lands to carry out part of the contract requirements, but no permanent interest in land is necessary for the protection or maintenance of the facility being constructed. In such cases, the Right of Way Plat will show a Temporary Interest or "TI" under the Schedule of Lands and Interests Required. The dimensions or limits of the Temporary Interests area should also be shown on the R/W plat. The interest may be acquired through the use of one of the following instruments:
 - A. **TEMPORARY LIMITED EASEMENTS:** Are limited in purpose and time, and will normally terminate upon completion of construction. Work to be done within a TLE may range from minor sloping and drainage work to minor blending and driveway reconstruction work.
 - B. **CONSTRUCTION PERMITS:** May be used instead of a TLE to temporarily enter upon private property to facilitate certain construction activities that help make the property compatible to the roadway. Since these permits are frequently to the owner's benefit, most do not require compensation. The permits typically are **not** recorded and terminate upon completion of construction. The limits of the permitted work area should be shown on the permit and on the plan. These are usually used when there is no fee simple acquisition from a particular property. Some examples follow:
 - ♦ Blending back slopes behind curb and gutter.
 - ♦ Reinstallation of a driveway entrance.
 - ♦ Replacement of driveway surfacing.
 - ♦ Matching lawns to sidewalks or slopes.
 - ♦ Providing a temporary work area.
 - ♦ Completing work requested by the owner.
 - C. **TEMPORARY RIGHT OF ENTRY EASEMENTS:** Temporary permit to enter on lands for construction purposes. This is used **ONLY** when negotiations to acquire a permanent right are already underway. A Right of Entry may be executed when the property owner is willing to allow construction to proceed prior to the actual date of acquisition. Since a Right of Entry Easement acquires only the right to enter upon the land for construction the required interest must subsequently be acquired as quickly as possible by conveyance or Award of Damage.
2. **PERMANENT LIMITED EASEMENTS:** For construction outside the normal right of way that will require occasional maintenance but will not impair the property owner's use of the land. For example:
 - ♦ Riprap in drainage ditches.
 - ♦ Culvert outlets.

Other Types of Right of Way - continued

3. **HIGHWAY EASEMENTS:** Interest from another public agency such as DNR or a railroad. This easement is good as long as the land is used for highway purposes. **Page 6-7 is a memo outlining the *Real Estate Operating Guidelines with DNR*. This guideline refers to the 1988 agreement in which, among other items, we agreed to restrict interest acquired from DNR to Highway Easement only, unless there is an absolute need for fee title.**
4. **RESTRICTED DEVELOPMENT EASEMENT:** Typically used for vision corners or to impose a building setback. Fee purchase is usually preferred.
5. **UTILITY EASEMENTS:** Check title searches for these. They only need to be acquired when within the area of new R/W purchase.

OTHER PURCHASABLE RIGHTS

1. **ACCESS CONTROL:** This is normally limited to roadways identified on the Access Management System Plan by planning. Control of the access to and from public highways. See FDM chapters 12-5-5 or 7-20-1.
2. **SCENIC EASEMENTS:** To preserve views of natural features. See FDM chapter 7-55-1.
3. **RIPARIAN RIGHTS:** The rights to water attached to land bordering a stream, river, or lake. District One policy is not to acquire riparian rights unless the title search indicates that riparian rights were acquired by the property owner.
4. **ADVERTISING RIGHTS:** Right to control sign/billboard placement.
5. **AIR RIGHTS:** Included in fee acquisition.

CORRESPONDENCE/MEMORANDUM

State of Wisconsin

Date: September 30, 1993
To: District Real Estate Managers
From: Gerald J. Miesbauer
Director, Office of Real Estate
Subject: Operating Guidelines with DNR

Ron Polacek and Tom Wagner met with Richard Steffes of the DNR on August 9, 1993 to discuss various concerns of DOT and DNR on land acquisition policies. The results of this meeting are as follows:

1. We will remind the districts that unless there is an absolute need for fee title, all of our acquisitions from DNR will be by highway easements. This is as per a 1988 agreement.
2. Appropriate personnel in each agency will review proposed acquisitions for impact and value and make recommendations to their agencies management.
3. Currently the DNR has a minimum transaction value of \$100.00 and DOT's minimum value is \$1000.00 for sale of excess land and usually \$50 to \$100 for acquisition. DOT has more acquisitions from DNR than visa versa. It would be to our advantage to utilize a \$100.00 minimum transaction value when selling to DNR, than to have the DNR increase to \$500.00.
4. DOT should provide DNR whatever title information is available for lands acquired by DNR from DOT.
5. DOT will be responsible for whatever title needs deemed necessary for acquisitions from DNR.
6. DOT should identify acquisition needs from DNR as early as possible and start the acquisition process so that DNR has enough time to process.
7. DOT should request right of entries at the time each offer is made to give DNR time to process and allow DOT to proceed with its project lettings.
8. DNR should recognize the need for DOT to allow utilities by permit to occupy R/W regardless of whether it is in fee or a highway easement.

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